

# Notice of Allowability

Application No.

10/051,243

Examiner

Traviss C. McIntosh

Applicant(s)

ISRAEL ET AL.

Art Unit

1623

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 4/11/05.
2. ☒ The allowed claim(s) is/are 9-12.
3. ☒ The drawings filed on 22 January 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☒ None    of the:
  1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on July 21, 1999. It is noted, however, that applicant has not filed a certified copy of the French application as required by 35 U.S.C. 119(b). It is noted that while the examiner indicated in the office action mailed on September 30, 2003 that the priority papers have been received, the examiner is unable to locate the priority papers. Applicant has successfully met the requirements for 35 U.S.C 120.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claims:

In claim 9, in the 5<sup>th</sup> line, the phrase "is selected among" has been deleted and replaced by the phrase "is selected from".

In claim 10, in the 2<sup>nd</sup> line, the phrase "is selected among" has been deleted and replaced by the phrase "is selected from".

The title has been deleted and replaced by the following title:

Methods for treating glutamate cytotoxicity with beta-naphthoquinone compounds

***Allowable Subject Matter***

Claims 9-12 are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Feuerstein et al. (US 6,384,069) is cited to show that the art recognizes that excessive release of glutamate is associated with various conditions and diseases such as Alzheimer's disease, hypoxia, hypoglycemia, stroke, etc. (see claim 1), and that methods of lowering glutamate levels are known to have efficacy in treating said diseases. Rosenberg (US 5,158,976 – art of record) additionally teaches that glutamate toxicity is related to various diseases such as stroke, hypoglycemia, trauma, epilepsy, amyotrophic lateral sclerosis, hypoxia, ischemia, Parkinson's, and Alzheimer's disease (see column 1, lines 52-62) and teaches that their invention is generally used to treat patients affected by above diseases in which neuronal injury or death is caused by the toxic levels of glutamate.

**REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: the prior art does not teach or fairly suggest the use of the beta-naphthoquinone compounds in treating diseases associated with excessive release of glutamate. The prior art teaches the use of the beta-naphthoquinone compounds as vasoprotective agents, and one of ordinary skill in the art would

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not find it obvious nor be motivated to use an agent which is known to be a vasoprotective agent in a method for treating diseases associated with excessive glutamate release.

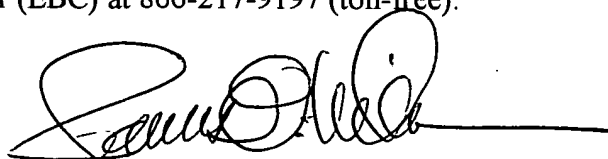
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C. McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III  
July 8, 2005



James O. Wilson  
Supervisory Patent Examiner  
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